

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA	:	CASE NO. 2:16-74
Plaintiff,	:	
vs.	:	JUDGE SMITH
GAVINO ESCAMILLA-GARCIA, ET AL.,	:	
Defendant.		

MOTION TO SUPPRESS STATEMENTS

Now comes Defendant Gavino Escamilla-Garcia, by and through counsel, and respectfully moves the Court for an Order suppressing any and all oral statements allegedly made by Defendant to law enforcement officers including but not limited to statements allegedly made on March 15, 2016. Escamilla-Garcia further requests that the Court conduct an evidentiary hearing on this Motion. A Memorandum in Support is below.

Respectfully submitted,

GOLDEN & MEIZLISH CO., LPA

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MEMORANDUM IN SUPPORT

On or about March 15, 2016, agents of the Central Ohio HIDTA Drug Task Force or the U.S. Immigration and Customs Enforcement Agency, or both, purportedly obtained statements from Defendant Gavino Escamilla-Garcia while he was in custody. Escamilla-Garcia was not advised of his Fifth Amendment rights to remain silent or right to counsel, nor was he offered to review and/or sign a waiver of his rights, before he purportedly made these statements. Accordingly, Escamilla-Garcia did not knowingly, intelligently and voluntarily waive his rights. *See United States v. Ray*, 803 F.3d 244, 265 (6th Cir. 2015) (explaining that any waiver of one's *Miranda* rights must have been done "voluntarily, knowingly, and intelligently") (internal quotation marks omitted).

The statements attributed to Escamilla-Garcia may have been used to obtain the Indictment, and the Government most likely will attempt to submit at trial. Because any such statements were made in violation of the Defendant's Fifth Amendment rights, the Court should suppress those statements. *See id.* ("A statement made in response to custodial police interrogation must be suppressed unless the suspect first waived his *Miranda* rights voluntarily, knowingly, and intelligently.") (internal quotation marks omitted).

Defendant hereby requests an evidentiary hearing as to this matter.

WHEREFORE, Defendant Gavino Escamilla-Garcia respectfully requests that the Court grant this Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true copy of the foregoing pleading was sent this 21st day of April 2016 via the Court's CM/ECF systems to all counsel of record.

Porter, Wright, Morris & Arthur LLP

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